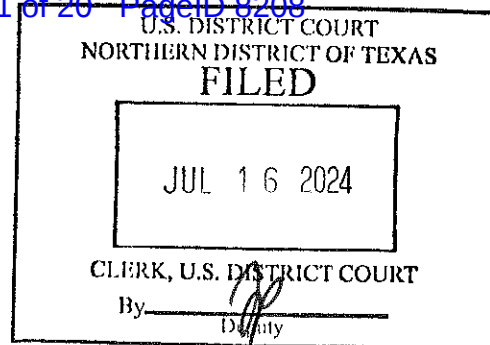


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FT. WORTH DIVISION



U.S. Navy SEALs 1-26,

Plaintiffs,

v.

President Biden, et al.,

Defendants.

Case No. 4:21-cv-01236

APPENDIX IN SUPPORT OF THE
ALVARADO CHAPLAINS' OBJECTIONS TO PROPOSED CLASS SETTLEMENT

July 15, 2024

Respectfully submitted,
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ALVARADO CHAPLAINS' OBJECTIONS TO PROPOSED CLASS SETTLEMENT

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Section 533 of the 2013 NDAA as modified by section 532 of the 2014 NDAA

Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members, Pub. L. 112–239, div. A, title V, §533, Jan. 2, 2013, 126 Stat. 1727, as amended by Pub. L. 113–66, div. A, title V, §532(a), Dec. 26, 2013, 127 Stat. 759, provides that:

"(a) Protection of Rights of Conscience.—

"(1) Accommodation.—Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces shall accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

"(2) Disciplinary or administrative action.—Nothing in paragraph (1) precludes disciplinary or administrative action for conduct that is proscribed by chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

"(b) Protection of Chaplain Decisions Relating to Conscience, Moral Principles, or Religious Beliefs.—No member of the Armed Forces may—

"(1) require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain; or

"(2) discriminate or take any adverse personnel action against a chaplain, including denial of promotion, schooling, training, or assignment, on the basis of the refusal by the chaplain to comply with a requirement prohibited by paragraph (1).

"(c) Regulations.—The Secretary of Defense shall issue regulations implementing the protections afforded by this section."

[Pub. L. 113–66, div. A, title V, §532(b), Dec. 26, 2013, 127 Stat. 759, provided that: "Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall prescribe the implementing regulations required by subsection (c) of such section [section 533 of Pub. L. 112–239, set out above]. In prescribing such regulations, the Secretary shall consult with the official military faith-group representatives who endorse military chaplains."]

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF LT NATHANAEL A. GENTILHOMME, CHC, USN

Pursuant to 28 U.S.C. §1746, I, LT Nathanael A. Gentilhomme, CHC, USN, declare as follows:

1. My name is Nathanael A. Gentilhomme. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of Navy mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I live in Spotsylvania County, VA. My home of record is Travelers Rest, Greenville County, SC.
4. I am an active duty Chaplain in the United States Navy endorsed by the Associated Gospel Churches ("AGC"). I am serving at the rank of Lieutenant and currently assigned to the Marine Corps Air Facility ("MCAF"), Quantico, Virginia.
5. I began my military service on 18 February 2009 when I was commissioned an Ensign in the Navy into the Chaplain Candidate Program Officer Program. I was later commissioned on 31 July 2014 and entered active duty in August 2014.
6. My promotions were as follows: Lieutenant (Junior Grade) O-2 with date of rank and effective date of 2/12/2011; Lieutenant O-3 with date of rank and effective date of 8/1/2015. I have approximately 13 years of service as of March 23, 2022.
7. During my military career, I have had the following deployments to foreign areas: 05/2015-07/2015 Japan, South Korea; 06/2016-08/2016 Philippines, Diego Garcia, India, Sri Lanka; 03/2017-04/2017 Marshall Islands; Hawaii; 10/2018-11/2018 TRIDENT JUNCTURE in Norway.

8. I have received the following during my military career: Two Navy and Marine Corps Commendation Medals and the Fleet Marine Force Qualified Officer pin.

9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) at Exhibit 1 on 16 September 2021, asking to be excused from the Navy's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: I hereby state that my request is based upon the fact that this particular vaccine was made possible from research which utilized cell lines from aborted babies. Early in the development of mRNA vaccine technology, cells from aborted babies were used as "proof of concept" (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein. As a Christian, I believe the murder of babies at any stage of development within a woman's womb is wrong, and using medicine, pills, or vaccines directly or indirectly linked to aborted babies should be avoided at all costs. As a Christian, my body is the temple of the Holy Spirit and by getting any FDA approved COVID-19 vaccine, I would be defiling my body. Receiving the COVID-19 vaccine would go against my deeply held religious and moral beliefs causing me to sin against God and my conscience.

10. My RAR was denied on 09 November 2021 Exhibit 2. I submitted my RAR appeal, Exhibit 3, on 02 December 2021, which still "remains under consideration."

11. "Vaccine" used to mean a medical procedure that protected you from the disease against which you were being vaccinated against whereas COVID-19 vaccines do not protect you but are in reality a treatment. In December 2020, I was diagnosed with COVID-19, got pretty sick and recovered. Later in October 2021, my wife was diagnosed with COVID-19, got pretty sick and recovered. During that same time, though we did not get them tested, five of our six children also got sick, most likely COVID, and recovered. All while my wife and children were sick, I continued to live and interact closely with them, and did not get COVID a second time. I

strongly believe since I had previously had COVID, I had developed strong, natural immunity against COVID. It is now March 2022 and I still have not been re-infected with COVID-19, though our own Navy Doc who is himself fully vaccinated, has already had COVID twice. Ironically, even though there are multiple authoritative studies concluding that natural immunity is as good as if not better than the shots, the Navy/Marine Corps still requires me to get the COVID shot and is actively trying to prevent me from obtaining religious exemption from the shot mandate.

12. In the spring of 2021, the DoD came out with a new, yet short-lived policy, based on the Center for Disease Control's "recommendation" that said Americans who were vaccinated, no longer needed to wear masks indoors, while those who remained unvaccinated, still had to wear masks indoors. This was prior to the DoD officially enforcing the COVID-19 shot mandate, but those of us with religious beliefs or matters of conscience that would not permit us to get the shot, immediately began to be publicly discriminated against. I would walk into meetings where most personnel were not wearing masks, but I had to wear one. Immediately, my private medical information was visibly on display since most knew I was not wearing the mask by choice. It was an intrusion on my medical privacy, and worse it was Government approved discrimination and "mask shaming." The military prides itself in combatting discrimination at all levels, yet when it comes to COVID mitigation policies and the vaccinated vs. unvaccinated, they did not bat an eye at the humiliating mask discrimination policies. It was done all in the name of "public health and safety" even though most people I talked to acknowledged that all the COVID "mitigations/restrictions" at that point were primarily political.

14. Thankfully, I have not experienced any retaliatory or punitive actions from my command for submitting a religious accommodation request, however, I have experienced negative actions for questioning COVID "mitigation" policies and also for informing our Marines/Sailors of their

right to utilize the Religious Accommodation Request process. In March 2021, the COVID-19 shot was still voluntary in the Navy and Marine Corps. When I learned that unvaccinated Marines were being barred from going on trips, I asked the Commanding Officer (CO) of one of the commands I provide Chaplain Support to why he was penalizing his Marines for not getting a shot that was presently voluntary. His response was to kick me out of his office and accuse me of “not supporting the mission.” He claimed “I am not penalizing my Marines. If they don’t want to get vaccinated, they can stay in the rear with the gear.” When September 2021 came along, and the COVID-19 shot became mandatory throughout the DoD, this same command would not permit me to be the interviewing Chaplain for their Marines/Sailors during the Religious Accommodation interview process. They thought I would simply “rubber stamp” recommend for approval all RARs. This was a false assumption on their part and an improper handling of the whole matter. It is my job, during the Religious Accommodation Request Chaplain Interview, to assess the sincerity of a service member’s belief, not whether I agree with it or not, and that is exactly what I do during every interview. They were trying their best to prevent their Marines from getting any kind of support in their pursuits of seeking exemption from the COVID-19 shot via the RAR process. They reached out to another Chaplain, who is actually an Army Chaplain, to conduct around 25 Religious Accommodation Request Interviews, instead of me, the Navy Chaplain assigned to cover down on their unit. It has almost been one year, and even though there is a new CO at this one command, he has never attempted to speak with me, and I am still not permitted to provide Chaplain Ministry of presence throughout his command spaces.

Next, recently I had to submit my annual LT Fitness Report (FITREP). Prior to this one, I had twelve excellent FITREPS signed by previous COs all with the promotion recommendation code ‘EP’ for ‘Early Promote.’ My present CO gave me a promotion recommendation of only ‘P’ which is ‘Promotable.’ Further, he downgraded most of the language highlighting my

accomplishments during the previous evaluation period, ensuring that I will not get promoted in the spring of 2023 (when I will be in-zone for promotion for the first time). He mentioned that one of the primary reasons for giving me such low scores on my FITREP was due to the fact that I am significantly underutilized, not having access to more than 80% of the personnel I am supposed to be providing Chaplain Ministry support to. This is a direct result of continuing to be barred from carrying out deckplate ministry to our primary tenant command as a result of the old CO erupting at me for daring to ask him why he was penalizing Marines not getting the then voluntary COVID-19 shot. Had that never happened, I have no doubt my present CO would have given me much higher scores on my most recent FITREP. I believe the two are directly linked.

Additionally, around the time the COVID-19 shot mandate was implemented, I sent out two ALL HANDS e-mails to each of the commands I cover sharing the policy about how to go about submitting a Religious Accommodation Request and what might qualify a service member to submit one. A couple Marines ended up complaining about my e-mail, so my CO had a meeting to let me know that he and some others were concerned that it appeared I was encouraging Marines/Sailors to seek exemption from the COVID-19 shot mandate. My CO explained that when it comes to publishing messages connected with policy, he wanted to be included so he could help craft the message. I believe it is because my wording was not “politically correct” in that it did not promote the vaccine, but rather gave Marines/Sailors with sincerely held beliefs a possibility of not getting the shot. I firmly believe that if I had sent out an e-mail with the policy about Chaplains and Confidentiality, nobody would have said a thing to me, but since my e-mail served to advocate for Marines/Sailors with religious beliefs or matters of conscience at odds with the COVID-19 shot mandate, I was targeted and it was made clear that my attempt to advocate for Marines/Sailors was not permitted. The only messaging that has been allowed at the two commands I serve is “get the shot,” “wear your mask,” and “social

distance.” Any attempt on my part to question past COVID policies and advocate for those not wanting the shot was only met with accusations of not upholding Navy/Marine Corps policy and that I was risking “the health and wellbeing of personnel” assigned to our commands. However, not at any point have I risked “the health and wellbeing of personnel.” Marines/Sailors all around me got COVID from other people and places, but never from me. As a direct result of the fact that I have not wholeheartedly embraced and supported COVID-19 policy restrictions and the COVID-19 shot mandate, I received one Letter of Instruction (LOI) and one Record of Informal Counseling from my past and present COs.

15. The Navy has put out guidance in the recent past that essentially said Navy Officers whose RARs are denied may elect to waive their right to a Board of Inquiry (BOI) and resign or retire to guarantee receiving an Honorable Discharge and not a General Discharge. According to LT Stephanie Moore at PERS-834, Navy Officers may elect a BOI, but at that point an Honorable Discharge could not be guaranteed, though she could not say for certain it was not possible. There is great uncertainty for Navy Officers in my position. If our appeals get denied, right now it seems the only way to be assured of an Honorable Discharge is to resign, and waive our right to a BOI.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 25, 2022

/S/ Nathanael A. Gentilhomme
Nathanael A. Gentilhomme, CHC, USN

**Excerpts from February 28, 2023, House Armed Services Committee Hearing Transcript:
Impact of COVID-19 on DOD and Its Service Members**

Source: https://www.youtube.com/watch?v=TRSZsKt5j_0

Official Source (without timestamps): [https://www.navy.mil/Press-](https://www.navy.mil/Press-Office/Testimony/displaytestimony/Article/3315887/house-armed-services-subcommittee-on-military-personnel-holdshearing-on-covid/)

[Office/Testimony/displaytestimony/](https://www.navy.mil/Press-Office/Testimony/displaytestimony/Article/3315887/house-armed-services-subcommittee-on-military-personnel-holdshearing-on-covid/)

[Article/3315887/house-armed-services-subcommittee-on-military-personnel-holdshearing-on-covid/](https://www.navy.mil/Press-Office/Testimony/displaytestimony/Article/3315887/house-armed-services-subcommittee-on-military-personnel-holdshearing-on-covid/)

0:34 (Chairman Banks) The hearing will now come to order I want to welcome everyone to our first hearing of the military personnel subcommittee of the 118th Congress today's hearing is focused on COVID-19's impact on the Department of Defense and its service members I want to thank our Witnesses for being with us today and for their service and support of the DOD and the military departments.

0:56 I also want to thank the thousands of service members active duty reservists and guard members who answered the call and put service in front of self to support covid-19 operations throughout the United States let alone those Services serving in our VA and civilian Health Care Facilities who were on the front lines in the battle against covid 19. and of course the men and women serving as emergency responders whether they were police firefighters or in any other capacity we could not have beaten covid-19 without your efforts thank you although not the focus of today's hearing.

1:38 I would be remiss if I did not mention the need to understand the origins of covid-19 and the role that China played in a pandemic that killed over 1.1 million innocent Americans to include
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military service members there is no doubt that China must be held accountable for its actions in the covid-19 pandemic now for this hearing.

1:58 I understand there was a flurry of activity late on Friday afternoon and through the weekend within DOD and the services releasing implementing guidance on the covid-19 vaccination rescission. This is good news for our service members and their families however the timing of these of the release of these policies essentially two business days before this hearing is awfully curious. I think this committee's aggressive oversight was instrumental in getting the implementing guidance released. There is nothing like the threat of a hearing and the potential to be called to task for not complying with a statute to prompt action while I'm glad to see DOD and the services now implementing the rescission note.

2:45 The NDAA was signed into law on December 23 2022 the SECDEFs initial guidance was issued on January 10, 2023. All of the rescission guidance should have been completed within 30 days of signing the NDAA yet here we are at the end of February almost March before this guidance was promulgated.

3:11 I'm also disappointed in the lack of responsiveness of DOD in the military department to get back to the committee on questions that are important to our oversight responsibilities and also to our service members so much so that chairman Rogers and I found it necessary necessary to write a letter to secretary Austin with a whole host of questions on covid-19.

3:31 I note that OSD chose to send their reply to this letter last night giving us a little time to review their responses. I also have to mention that many of our committee members are disappointed with dod's issuance of its reproductive Health Care policy or as many call it the dod abortion travel policy while this will not be the focus of today's hearing the release of this policy

was ruled out with no Advanced discussion with the committee and serves as another example of the Biden Administration using the Department of Defense as a social reform Laboratory.

4:06 Finally because this is our first Hearing in 2023 I would like to acknowledge that this year marks the 50th anniversary of our transition to an all-volunteer Force. Fiscal year 2022 was the single worst year for military recruiting since that transition and it's important for this subcommittee to figure out why as far as our hearing today I am looking forward to this discussion and affording our members the opportunity to ask their questions on DoD's response to covid-19.

4:38 I want to welcome all of our Witnesses first The Honorable uh Gilbert Cisneros Jr the under secretary of defense for personnel and Readiness Department of Defense. Secondly The Honorable Gabe Camarillo under Secretary of the army Department of the army and The Honorable Frank Raven under Secretary of the Navy Department of the Navy and The Honorable Gina Jones under Secretary of the Air Force Department of the Air Force before hearing from them uh and our Witnesses let me offer ranking member Kim an opportunity to make his opening remarks as well

27:52 (Chairman Banks) Uh thank you to each of you. I'll begin with questions um Mr Cisneros last night OSD reply to a February 12th letter from me and chairman Rogers regarding dod's covet policies. I'm going to quote a few lines from the response military service "Services officials are determining quote appropriate action for service members who did not submit an exemption or accommodation request remained unvaccinated and refused a lawful order to take the vaccine" [end quote]. My first question is why are officials in the services still reviewing these cases if the covid-19 vaccine mandate was rescinded?

28:34 (Cisneros) Thank you for the question there uh Mr chairman uh you know this is a situation we've never really been in before where we've actually had to go through a process of repealing a vaccine that we've mandated uh in Congress initiating a a statute to make us take it back this is a new process for us it's something that we're trying to figure out and we've been working on it um the situation that you just described was members who refused the vaccine who disobeyed a lawful order the services are going through a process to look at that and and evaluate what needs to be done in those situations and if for more information I can turn it over the services to kind of have them reflected ...

29:19 (Chairman Banks) So your answer is that the reason that we're still reviewing cases after the vaccine mandate was rescinded is because they disobeyed a lawful order is that what I heard you say?

29:30 (Cisneros) Those who refuse the vaccine and did not put in a request for accommodation refused a lawful order. That is correct.

29:37 (Banks) But expand for a minute for a minute just what's the point if we rescinded the Mandate what's the point of continuing to review the cases.

29:46 (Cisneros) Well the reviewing the cases because as I said they re they disobeyed a lawful order and in order to maintain good order and discipline it's very important that our service members go and follow orders when they are lawful and and there were several or thousands that did not and so their services are going through a process to review those cases to make a determination what needs to be done.

30:13 (Chairman Banks) All right then there was this statement quote "no service members currently serving will be separated based solely on their refusal to receive the covid-19 vaccination if they sought an accommodation based on religious administrative or medical grounds" end quote.

So if service members did not receive or seek an accommodation for the covid-19 vaccination are you still planning to separate those service members?

30:38 (Cisneros) That is up to the services but no as the statement said no individual is being separated for refusing the covid-19 vaccine if individuals have been separated there have been were separated because they disobeyed a lawful order.

30:53 (Chairman Banks) Any of you able to respond to that? Mr. Camarillo?

31:00 (Camarillo) Mr Chairman there are a number of cases that we still have yet to review for individual soldiers that as secretary Cisneros said chose to no not comply with a lawful order I would just add that each of these cases has to be evaluated on its own individual merits because they're highly fact specific. There may be in any instance numerous uh violations of the UCMJ or other uh you know other areas in which there might be circumstances in which to to look at disciplinary procedures so we'd have to look at them all individually on a case-by-case basis.

31:31 (Chairman Banks) Mr Raven?

31:34 (Raven) Uh that that's exactly right we are we are determined to look at each of these cases on the merits of the facts of each case and we will conduct an individualized review of each one of these cases.

31:44 (Chairman Banks) Miss Jones?

31:44 (Jones) Yeah let me just say I mean we have implemented um guidance to rescind uh the Mandate we're not reviewing any further exemptions those have been referred to the returned to the service members without action. Um the uh you know as captured by my colleagues we're doing this expeditiously and look forward to working toward the 17-4 17 March um uh deadline that PNR has put in place to make sure all these things are are fully rescinded yeah.

32:12 (Chairman Banks) I know you're going to hear from a lot of my colleagues today who are infuriated but the double um standard and message that you're sending to our troops we're sending a policy and then still punishing them for um the for not taking the vaccine but I'm gonna move on and leave that up to some of my colleagues. In his opening statement under secretary Cisneros said that many vaccines are quote "required for all military personnel who do not already have immunity" end quote.

32:50 Last week the Lancet medical journal published a study showing that natural immunity is as effective as two doses of the covid-19 vaccine at preventing severe illness and death thousands of service members were discharged and tens of thousands of potential recruits were barred from enlisting because they had not been vaccinated against covid 19. However a significant portion of them did have immunity due to a prior covid infection. Uh secretary Cisneros does the dod acknowledge the lancet's conclusion that natural immunity is as effective as a vaccination?

33:22 (Cisneros) Mr chairman I believe we're still kind of evaluating uh the results of the COVID and the research it's going through. It's not like chickenpox where if you get it once and you're good there have been people who have gotten covered numerous times and so we don't know about natural immunity there as far as you know how it works and how effective it is and so we are going based on the research that we have and we've continued to update and change our policies as the research has progressed and we've gone through this process but right now there is no more COVID 19 vaccine although we do still encourage our members to get the

vaccination as well as the boosters when they come out.

34:03 (Chairman Banks) So recruits can be exempt from chickenpox and measles vaccines if they have natural immunity. Is the dod considering natural natural immunity while reviewing cases of service members who refuse the covid-19 vaccine or is that off the table?

34:18 (Cisneros) You know again Mr chairman as the the research gets better and we learn more about this disease it's still very relatively young it's only been since 2020 that this has been around there's no there's no good evidence in the research that's still going on as to how we need to progress with this but as of right now national natural National natural immunity is not something that we believe in for this and so we are still moving forward but again right now there is no coveted 19 mandate there is no coveted 19 requirement for service members to enter the military or to be in the military.

34:59 (Chairman Banks) All right I'll yield to the ranking member yeah

40:25 (Gaetz) Under secretary Cisneros is there a plan to reinstate the roughly 8,600 service members across active duty reserves in the guard back to their point of service?

40:39 (Cisneros) Thanks for the question there representative Gates. Um service members that have been separated there is a policy uh procedure for that they can apply to the board of Corrections if they have discovered they think there's a discrepancy in their discharge they can go and do that procedure 40:55 (Gaetz) I didn't ask about their options as far as your specific plan like do you have a plan

to go get these folks back into service in our military?

41:02 (Cisneros) Well the the policy is the same that has always been right? If service members are discharged and they want to come back into the service they can apply they can go talk to recruiters.

41:12 (Gaetz) No active plan to do proactive Outreach to these individuals to get them back in the military?

41:16 (Cisneros) Our plan is the same as it's always been.

41:18 (Gaetz) But it doesn't include that active Outreach to get people back?

41:23 (Gaetz) It seems like I wanted to ask under secretary Raven did the Navy send out form letters in response to people's requests for religious exemptions?

41:32 (Raven) Sir I'd have to get back to you on that.

41:33 (Gaetz) Really important though because the law requires an individualized assessment of people's requests for in for a religious exemption right?

41:41 (Raven) Uh yes sir whatever initial Outreach maybe I'll get back to you on that but in terms of the process we followed it was individualized review at multiple levels.

41:50 (Gaetz) You you believe there was that individualized review?

41:52 (Raven) Uh yes sir well it ...

41:57 (Gaetz) I mean the Inspector General disagrees with you. The the Inspector General issued a report in June of 2022 I'm quoting directly from it "the denial memorandum random we reviewed generally did not reflect an individualized analysis" and the IG's report goes on say that the average amount of time that each package was considered was 12 minutes. Does 12 minutes seem like a sufficient amount of time to make an individual review on someone's deeply held religious basis for an exemption?

42:24 (Raven) Sir the process that was followed included multiple reviews at the medical chaplaincy and legal reviews. Senior commanders going all the way up to uh to headquarters.

The Marine Corps established a board with senior level reviews outside the chain of command for each one of these reviews that amounted to in many cases more than 10 hours of review of each cases.

42:46 (Gaetz) That's not what the Inspector General says. That seems like a self-assessment not not a reflection on the assessment and you know for to hear you say that is concerning because it would it would seem to suggest that you guys haven't really taken to the advice into the findings of the IG. And it also doesn't really comport with what I saw with my own two eyes because I went to Naval installations and met with service members who could point to letter memorandum they'd received that were exactly identical. You could have held them up to a lamp back to back and it was these people had poured out their faith basis to seek an exemption and then they got a form letter back. And it sort of goes back to my my question to Mr Cisneros like are we stronger or weaker as a country because there are 8 600 people that used to wear the uniform but because of the vax Mandate now they don't?

43:38 (Raven) Congressman I would say we're as strong as ever we are still a lethal Force we are already our retention has been at record high levels and we are ready to defend the nation today.

43:49 (Gaetz) I think that you'll find in a lot of military communities they feel like they're not as strong because they see instructor Pilots that have been separated. People involved in critical test mission that now are not part of the Fighting Force. Like um Ms Jones how many Pilots did we lose because of the vax mandate?

44:06 (Jones) Representative I have to follow up with you on that.

44:08 (Gaetz) I I've got a report here from The Epoch Times I don't know if it's true or not but it talks about over 700 does that number sound about right?

44:15 (Jones) That does not sound right but I'd have to follow up with you I'm not familiar with the public.

44:19 (Gaetz) It strikes me something we should really know Mr chairman. I mean you know right now we've got an Air Force that faces a pilot shortage and we we should know at this hearing and I hope we'll get for the record how many Pilots we lost because I think that if you lost hundreds of Pilots it would be really hard to make the argument that you made that we're a stronger country because of it how about special operators. I know how much money we put into special operators. Do we lose any of them because of the vax mandate?

44:43 (Cisneros) I'm sorry I didn't hear the last part of your question.

44:47 (Gaetz) Do we lose any special operators because of the vax Mandate?

44:51 (Cisneros) You would have to ask the services to that for their specific the amount. I'd have to take that for the record.

44:54 (Gaetz) Mr. Camarillo did we lose any Green Berets?

44:56 (Camarillo) I don't have the breakout Gaetz may I follow up with you.

44:58 (Jones) Mr. Gaetz may I follow up with you? We actually did not discharge any officers as a result of them uh Department of the Air Force officers as a result of them failing to obey the lawful order. For those that opted to voluntarily separate or volunteer or retire or in lieu of um then that was they they voluntarily did that and ...

45:16 (Gaetz) Do we know that number because I think they

45:18 (Jones) I do actually do you like it yes yes so those folks that opted to um the chart ... But let me um ... There were 610 folks that were that were um that were separated um and just a small amount of those folks that were uh

45:42 (Gaetz) I sure hope I would hope provided for the record great and Mr chairman just as I

yield back my time to you. I think the breakdown of some of these folks who we invest so much time into training and to see how many of those we lost and to be able to assess Readiness would be important work for our committee going forward I appreciate your Indulgence and I yield back thank you.

45:50 (Jones) It was that I agree 40 office Air Force officers separation and separated in lieu of officers separated retired in lieu of but it can provide that formulation.

51:22 (Alford) Thank you Mr chairman ranking member Kim. Appreciate you uh having these Witnesses here before us thank you for being here taking your time out I'm honored to uh represent two vital military installations in the fourth congressional district of the great state of Missouri that being Fort Leonard Wood and Whiteman Air Force Base some of the B-2 stealth bomber um Fort Leonard Wood of course is a critical asset to our military we train more than 80 000 Personnel each year there you know our military has incredible capabilities and we're all very proud of that but Readiness is an issue. I think that's one of the things we're really going to concentrate in this subcommittee the Readiness for our personnel. This this vaccine mandate which ended up you know kicking out 8,400 service members I don't think it did much for the morale for the military, the morale for America. The Army has really missed its uh recruitment goals 25 percent last year 15 000 soldiers and we live in an increasingly dangerous world where communist Chinese government is the number one threat to our national security we've got to be ready we cannot afford the loss of any more soldiers So I want to start with under secretary uh Cisneros and your response to Congressman Gaetz earlier I was a little bit shocked when you when he asked you are we stronger and you think we are stronger how are we stronger after losing 8,400 service members.

52:51 (Cisneros) Congressman thanks for the question. Um we've had over 2 million service members who received the vaccine that's allowed us to remain operational. It's allowed us to deploy forces. It's allowed us to continue training. Ot has allowed us to do the mission and carry out the national defense strategy. Our retention is is at record levels so I would argue that the vaccine has been an intro part of keeping the force ready and played a big part in ensuring our Readiness of our Force.

53:24 (Alford) But we now know that the the vaccine does not completely prohibit the spread of covid-19 so uh you know looking back it's a little bit easier to do that. But how are we Stronger by losing 8 400 people when this vaccine may not have prevented the spread of it in the first place ?

53:42 (Cisneros) Congressman what we do know what the vaccine has been effective as is keeping people alive and keeping them out of the hospital and there's been good data and research on that.

53:52 (Alford) All right next question for uh under secretary Jones. The Department of Air Force recently issued guidelines on removal of adverse actions related to refusal of covid-19 vaccinations. Can you explain exactly what the Air Force is doing now to remove adverse service records?

54:10 (Jones) Representative thank you for the question. Thanks for your support uh for for Whiteman Air Force Base. I was able to visit last year and it's a great Mission uh total Force Mission at the support out of the base. So in terms of adverse action uh we are doing a couple of things based on the bucket that you are in um. So you if you are currently serving and you followed the um the uh excuse me you submitted an accommodation request and if the adverse

action is tied solely to your refusal of the vaccine then the Air Force personnel Center is taking steps now to remove that adverse paperwork from your file and ...

54:48 (Alford) So there'll be nothing left on that file? It'll be totally expunged?

54:52 (Jones) Well uh so I want to be clear about the caveat if the only reason is the refusal to vaccinate then afpc the Air Force personnel Center is going to remove that if there are aggregate aggravating factors such as other misconduct okay right other misconduct then that'll have to be reviewed for what may be appropriate. Right so for those that are currently serving that did not submit a religious accommodation request or avail themselves of any of the exemption processes they have to initiate the process with the Air Force board for Correctional military records? For those that have already separated and would still like to for example update their their file they would have to go through the discharge review board and... So this has been well laid out in the in the memo that secretary Kendall uh put out.

55:46 (Alford) Got 30 seconds left let's go to uh under secretary Camarillo. Maybe you can answer the this. Will there be any tags markers codes associated with any service Personnel that has been dismissed that will be recognizable by anyone bringing these service members back? Will they will anyone know that these people left because and then brought back because of the Mandate?

56:07 (Camarillo) Their discharge Congressman will be consistent with the ndaa and as secretary Jones just explained the Army's following a very similar process if it's only related to refusal to comply with the COVID vaccine mandate those will be removed.

56:21 (Alford) Thank you again Witnesses I yield back Mr Horsford.

1:01:35 (Chairman Banks) Thank you I'll remind the gentleman there is a readiness subcommittee and chairman Rogers is setting up a quality of life task force within the armed services committee I'm sure he would be glad to hear about your interests in that task force as well Mr Mills.

1:01:44 (Mills) Thank you Mr chairman thank you to this team colleague. I'd ask that you keep it very brief because I want to get through this and I have a lot of questions first Mr chairman I'd like to be entered into record DD Form 3176 DD Form 3177 for qualifications Mr chairman. Thank you so much with that also just want to note something that my colleague Mr Gaetz had followed through on was the idea that these packages that were actually being submitted for a request medical exemption or delay was being reviewed in a time span of about 12 minutes per to vet these to ensure the actual qualifications of whether they are qualified or not qualified. Now have you seen these forms by Chance the DD 3176 or 3177?

1:02:30 (Cisneros) Um I'm not familiar with that form that you're referring to but I have looked at some of the packets that have gone through the process of being evaluated.

1:02:42 (Mills) Okay well let me go ahead and explain really quickly some of the questions on here which is kind of lengthy but I'll talk about the ideas of medical conditions and circumstances. It talks about your circumstance for being vaccinated why you would you'd feel that you need to be exempt from it. It talks about your religious Liberties things like that. Do you think that any anyone on this panel can answer that you have the qualifications and or the vetting process to be able to do this within 12 minutes which is exactly what the DOD IG said the average time is?

1:03:09 (Cisneros) Representative I would agree with my colleague here Mr Camarillo when he stated earlier that these these packages were giving a link ...

1:03:15 (Mills) That's not what I asked. I asked do you think they can be done in 12 minutes

1:03:20 (Cisneros) And I am one of ... my response is that they were given over a lengthy view and looked over

1:03:25 (Mills) 12 minutes is a lengthy view in your opinion?

1:03:28 (Cisneros) I don't think it was done in 12 minutes I think they were ...

1:03:34 (Mills) So the DOD IG is wrong is what you're saying then you're on record for saying that the DOD Inspector General is incorrect in this?

1:03:40 (Cisneros) I think that the DOD Inspector General looked at some kind of numbers and kind of did it and did some math and wrote a letter to the Secretary of his opinion uh. It's my understanding there's still an IG report on this topic that is coming out later this year.

1:03:50 (Mills) So staying with you under secretary Cisneros. You said in your statements a moment ago that the United States military is as strong now as ever even with the 8400 purged out of our military and the 25,000 and were shortage in our recruitment so you're saying that we don't need those additional 30 plus thousand troops is what you're saying to maintain strength

1:04:10 (Cisneros) My statement was congressman is that the the vax the vaccine the covid-19 vaccine allowed us to go out and to train it allowed us to operate allow us to deploy around the world and and keep up our mission and Def and carry out the national defense strategy and defend the nation ...

1:04:30 (Mills) By increasing battle fatigue, Sir? Because I can tell you I spent over seven years in Iraq over three years in Afghanistan Kosovo Pakistan. Was blown up twice in 2006. There is a such thing as battle fatigue maybe you haven't experienced it because there wasn't recruitment shortages to the level they are right now but they do exist let me move on to my next question which is simply this. Are you familiar with the DOD defense casualty analysis system foreign has a defense casualty analysis system. Are you aware of it?

1:05:00 (Cisneros) Yes sir so

1:05:00 (Mills) Then you should be aware that from the time period of 2000 to 2021 that the actual number of deaths due to illness has not changed and in fact the highest year was in 2009 with 277 and meanwhile it says as a result of due to illnesses you have and I'll read these off quickly but from 2010 through 2021 you had 238 252 246 214 195 196 173 171 actually starts coming down 2019 174 2020 154 2020 190. Relatively unchanged in the last 22 years can you tell me again how the COVID vaccine contributed to that?

1:05:50 (Cisneros) What I would tell you sir is the COVID vaccine allowed us to operate and to be able to deploy our forces around the world and make sure that we continue training that we're able to carry out the national defense strategy and defend the nation.

1:06:02 (Mills) Okay and just a quick question I noted that it was very simple that said that administrative exemptions were typically granted for service members who were within six months of separation or retirement. You know this is almost like the arbitrary thing where COVID only exists when you stand up you have to wear your mask but when you sit down it magically are you saying then that members who had six months or less had less risk of actually spreading the virus as those who have a year or more? This is your policies by the way.

1:06:26 (Cisneors) Sir, that is what we were saying is when that was carried out uh when people were allowed to go they were still required to meet certain the force Health protection guidance that was put out by the Department of Defense while they were still serving. And that was at times wearing their mask and doing what needed to be done in order to protect themselves and others from the covid-19 what was granted and what the services did and ... I'll let them explain

it further but if a member was was getting out and they had made the decision to get out and they were within six months of Separation they were given the administrative economy.

1:07:00 (Mills) The last question what actual re-entry code was everyone given who was force separated?

1:07:06 (Cisneros) You'd have to ask the services that but I know there wasn't one specific each service has a different culture and they did it on their own depending their service and their culture as to what they did.

1:07:16 (Mills) Well I can tell you this sir as a military combat veteran a proud service member I will be pushing as well as I'm sure that our our chairman as well as for the armed services chairman to allow these individuals who are unlawfully purged in my opinion to be re-entered into the military with their full benefits their back pay and be granted what they should have been given which is a chance to serve a United States military. With that I yield back Mr Davis

1:11:50 (Davis) I'm just making a note there but moving back now to a person that wants to re enter I mean we've talked a little bit about that process but I guess my question would be do we know not necessarily how many have re-entered but how many are actually now going through that process?

1:12:10 (Cisneros) I'll yield to the services on that if if they know how many um have actually asked to come back into the service. But as I stated earlier we already have a procedure for this those that have left the military and want to come back in we have a procedure for those that think there's a discrepancy in their discharge and want to have it corrected that they can go forward and do and that's at the board of corrections but we will uh you know we are going to continue to follow the procedures that we already have in place

1:12:44 (David) I'd love to hear from refer to the services the services.

1:12:46 (Camarillo) Congressman just to be clear there's two paths by which anybody who is separated come back one is to talk to a recruiter and just re-enlist the second is as secretary Cisneros said to go through the board of Correction and military records. I don't have data on how many people were prior separations related to this but we can get that for the record.

1:13:00 (Raven) Sir for the Department of the Navy exactly the same process uh individual can talk to a recruiter or the board for correction of Naval records. We've had single digits uh in terms of numbers of uh individuals who've uh explored the option of returning to service.

1:13:15 (Jones) Representative thanks for the question. Uh for those Department of the Air Force veterans that received a general discharge if they are interested in being reinstated they'd have to first meet the the discharge review board to have their their discharge characterization upgraded and once they were able to do that if they did that successfully then they could talk to a recruiter assuming they met a accession standards would be able to apply to gentlemen.

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2024, I sent via FedEx Overnight mail the foregoing *Alvarado* Chaplains' Objection to Proposed Settlement Agreement and the Chaplains' Appendix in Support in the above captioned case to the:

Clerk's Office
United States District Court for the Northern District of Texas
Fort Worth Division
501 West 10th Street, Room 310
Fort Worth, Texas 76102-3673
ATTN: U.S. Navy SEALs 1-26 v. Biden, Case No. 4:21-cv-01236, Objections to Proposed Class Settlement

I further certify that on July 15, 2024, I sent the foregoing *Alvarado* Chaplains' Objection to the Proposed Settlement Agreement of the above captioned case by email to the following attorneys representing the identified parties as directed by the Settlement's Notice, page 4:

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FT. WORTH DIVISION

U.S. Navy SEALs 1-26,

Plaintiffs,

v.

President Biden, et al.,

Defendants.

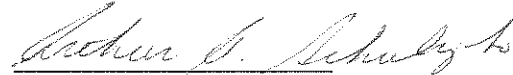
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Case No. 4:21-cv-01236

APPENDIX IN SUPPORT OF THE
ALVARADO CHAPLAINS' OBJECTIONS TO PROPOSED CLASS SETTLEMENT

July 15, 2024

Respectfully submitted,



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